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NOTES of the WEEK

The Effect of an Appeal

The submission that a case should be dismissed by a magistrates' court because a conviction by that court upon similar facts when another man had been charged with a like offence had been quashed, succeeded recently. That is at first sight an unusual reason for such a dismissal, but there is no doubt an explanation.

From a newspaper report it appears that when the first case came before the appeal committee the then chairman said there was suspicion but not sufficient evidence to support the conviction, and the appeal was accordingly allowed. When, some time later, another man was charged with a similar offence, his solicitor argued, at the close of the case for the prosecution, that the justices were bound to dismiss the case, and, after consideration, they came to the conclusion that they had no alternative.

If in fact the two defendants were charged with the same offence and the case against the second rested upon precisely the same evidence, then the justices may well have thought it would be futile to convict, with the almost certain result that there would be a successful appeal to quarter sessions. It does not mean, however, that they were debarred, as a matter of law, from convicting if they thought the evidence sufficient to justify conviction. The decision of quarter sessions is not a binding precedent on a question of law, and as to the facts each case is heard on its own merits. Indeed, upon the hearing of the second appeal, if there had been one, the appeal committee might have taken a different view. The hearing might have been before different justices, and the earlier case would not have bound them in any way.

The dismissal by the justices was no doubt perfectly right, but we suggest it was hardly correct to say they had no alternative.

False Weights and Measures

The case in which justices imposed a small fine on defendants in respect of a false scale, although the evidence was that the customer was given overweight because of the error, may seem strange at first sight, but not so strange when it is considered a little more closely.

A weight or measure is, as we understand the words, false or unjust when it is not accurate. The effect of the error is of importance in relation to the degree of the offence, and if only the trader suffers he is not likely to be considered to have acted with guilty intention. At the same time, it is possible to think of cases in which a weight or measure, by giving too much, might do harm, as in the making up of prescriptions of various kinds. Also, the scales, weights or measures might sometimes be used

when the trader was not selling, but receiving by purchase or otherwise. Beyond doubt, it is the object of the legislature that weights and measures should be accurate to the highest possible degree, favouring neither one party to a transaction nor the other.

"Ladders or Leathers." Speed of a Goods Vehicle

We have seen a report in a west country newspaper of a case in which a post-office engineer was convicted of driving a goods vehicle at a speed exceeding 30 miles per hour. The defence was that the vehicle was not carrying goods at the time and was, therefore, not within para. 2 (1) (a) of the first schedule to the 1930 Act. There was a dispute as to all that was in the van, but it was admitted that there was a fixture on the van on which a ladder was carried, and that there were in the van three spanners and three pairs of pliers. In the course of the case reference was made to *Clarke v. Cherry* [1953] 1 All E.R. 267; 117 J.P. 86. Some point was sought to be made of the fact that in the head-note of the former report it is stated that the court held that "the buckets, washing cloths and leathers" were goods within the meaning of s. 36 (1), Road and Rail Traffic Act, 1933, and that no mention is here made of ladders. The latter report, however, has a head-note in different terms, with no reference to the actual goods which were being carried but with emphasis placed on the fact that "goods" are not restricted to goods for sale. In both reports it is made clear in the judgment of the Lord Chief Justice that "the definition of goods includes goods or burden of any description, and it would seem that buckets, washing leathers and ladders are goods within that definition." As the judgment is so clear it seems, with all due respect to the advocate who put the argument forward, that the possibility that there was some confusion because of a similarity between the shorthand symbols for "leathers" and that for "ladders" was a point of no substance; and that there is no doubt, on this point, as to the effect of the case cited. Another point made for the defence was that the ladder in question was an integral part of the van. We assume from this that reliance was sought to be placed on s. 2 (4) (b), Road Traffic Act, 1930, which is as follows: "in the case of a vehicle fitted with a crane, dynamo, welding plant or other special appliance or apparatus which is a permanent or essentially permanent fixture, the appliance or apparatus shall not be deemed to constitute a load but shall be deemed to form part of the vehicle." It is difficult to comment with certainty on this, but the report we have referred to leaves us with the impression that the vehicle in question had a permanent fixture in or on which a ladder

could be carried, but that this would not make the ladder an appliance or apparatus which was a "permanent or essentially permanent fixture" within the meaning of s. 2 (4) (b) *supra*.

Bad Home or Approved School?

It is always conceded that family life is the natural and proper environment for a child and that even the best institution cannot quite make up for the loss of home life. It is sometimes said that an indifferent home is better than an approved school. This is no reflection on the admirable work of the approved schools in which children receive kindly treatment and even some advantages which they would not enjoy in their own homes, but where there can hardly be family life in its full sense.

Speaking at the annual meeting of the Approved School Welfare Officers' Association Mr. Guy Sixsmith, stipendiary magistrate for Cardiff, said that sometimes the bad home was a preferable choice to a good institution for a delinquent boy. He went on to say it was not the end of a boy's home life when he was sent to an approved school. The important thing was to encourage co-operation between the home the boy was leaving for a while and the institution to which he was going.

There are degrees of badness, and it will be agreed that sometimes the delinquent child has to be removed from his home because it is there that he has learned to commit acts of dishonesty and has been encouraged in bad habits. In other cases the home may leave much to be desired in various respects, but there is affection and kindness which, if not as constant and unvarying as it should be, is at all events felt by the child, and it would be a pity to take him away from it. As is stated in the recent report of the Kent children's committee: "most children have strong emotional ties with their own blood relations even if the family is a very unsatisfactory one; in general it seems that the risks engendered by total separation of children from their parents are greater than those run in maintaining controlled regular relationships."

Whether the modern approved school is open to criticism on the ground that it is too good, and incidentally expensive, is a question upon which opinions differ. At the Cardiff meeting a magistrate, who is also a manager of an approved school, asked if a boy who found himself well-dressed, well-fed and well-cared for at an approved school, was not liable to become discontented with his old home. "Are these boys becoming unfitted for the home conditions to which they will have to return?" she asked.

The reply of the president of the Association was that the schools must maintain their standards—they must not lower them to those of some homes.

"Dangerous" or "Careless" Driving— Discretion in Applying for Summonses

At Croydon Magistrates' Court recently, according to a report in the press, the chairman called attention to the fact that over a period of six months there were fifty cases in which summonses for both dangerous and careless driving had been applied for and issued, and that in forty-six of these cases the summons for dangerous driving had been dismissed. He added that in his view this indicates that the summonses are applied for indiscriminately and without sufficient regard to the distinction between dangerous and careless driving.

We appreciate that the police authority responsible for the prosecution may take the view that the forty-six defendants, or most of them, were lucky in being found not guilty of the grave offence, but the matter is, in our view, well worthy of

serious consideration. Many motorists may be prepared to admit that, in given circumstances, they were guilty of an offence against s. 12 of the 1930 Act, but would strenuously deny that the facts justified a finding that they had been guilty of the more reckless and deliberate conduct which is generally accepted as being required to justify conviction of an offence against s. 11.

May we put it in this way. When the police have in their possession the evidence on which they will have to rely the responsible person, be he a police officer or a legal officer, has to decide whether he is prepared to argue that that evidence, if accepted by the court, would justify a conviction for an offence against s. 11. If he is satisfied the appropriate application is made, and we fail to understand, in such a case, how the circumstances can have altered by the date of the hearing in court so as to justify the prosecution in saying, as they not infrequently do, that they are content to proceed only in the s. 12 summons. We do not think it is right for the attitude of the prosecution to be "here is a case of bad driving, the court may think it is dangerous driving or they may think it is careless driving. It is not for us to come to any decision on that matter, so we will apply for summonses under both sections and will leave the court to sort it out." It is sometimes suggested, we believe, that the s. 11 summons is taken with the deliberate hope that it will produce from the defendant an offer to plead to the s. 12 offence if the s. 11 offence is not proceeded with. We have no evidence of this, and we hope sincerely that no police authority would act on those lines.

It is important, in fairness to defendants, that s. 11 charges should not be preferred indiscriminately. A defendant who would attend in person and plead guilty to a s. 12 offence goes to the expense of taking legal advice and being legally represented to resist a charge of dangerous driving, and we think he has some cause to complain if he arrives at court and is told "oh, we are quite content to withdraw the s. 11 charge if you plead guilty to the s. 12 one."

Some courts take the view that if both summonses are before them they will not give leave for the graver one to be withdrawn, but will hear the evidence and decide for themselves whether that charge is substantiated. There is a good deal to be said for this practice. In any event the figures given by the Croydon chairman do seem to suggest that the appropriate authority might well make sure that due consideration is being given to the matter before the decision is made to apply for summonses under both sections.

A New Course of Lectures

We have received a copy of the syllabus of evening studies of the Manchester College of Commerce, which includes a course of lectures for justices' clerks' assistants. The synopsis shows that the lectures are designed to cover the whole of the business, both judicial and administrative, dealt with in the magistrates' court. So far as we know, there has not been anything quite like this provided for justices' clerks' assistants, and that they welcome it is shown by the fact that some seventy or eighty assistants from the Manchester and surrounding districts have enrolled. We have no doubt that justices' clerks' will be glad that such facilities have been made available to their assistants to increase their knowledge and efficiency.

The lectures have been arranged, in consultation with the principal of the college, by Mr. Edwin O'Brien, the deputy clerk to the Manchester city justices, who has had some thirty-two years' service with the justices and whose experience should prove of great value in his exposition of both principles and technicalities.

Law Reform (Limitation of Actions) Act, 1954

This Act, which came into operation on June 4, 1954, gives effect to the reports of the Monckton Committee on alternative remedies and the Tucker Committee. On the second reading in the House of Lords, Lord Hailsham explained that the Bill was concerned mainly with the limitation of actions which in the past has been based not upon some abstract theory of justice or jurisprudence but upon the practical needs of a living commercial community. It has been found that, in practice, causes of action raised long after the event are difficult to prove or disprove with resultant uncertainty in the outcome. The Act brings the position of public authorities as defendants into line with other defendants for the purpose of limitation. It also reduces from six years to three years the period of limitation for cases in which a claim is made for damages for personal injury and increases the period of limitation for accidents under Lord Campbell's Act of 1946 from one year to the same period of three years. The Act, therefore, repeals the Public Authorities Protection Act, 1893, and the corresponding provisions in the Limitation Act, 1939. Section 3 provides for the assimilation of causes of action under the Fatal Accidents Act to that of actions for personal injury. Local authorities are amongst those who have been mostly protected by the Limitation Acts but they also apply to

such bodies as the Wheat Commission although not to a body such as the Milk Marketing Board. A local authority was not protected if it were selling coke but, as pointed out by Lord Hailsham in the Lords, was protected in a case in which an employee was driving a lorry to remove refuse. The Acts were therefore described as a "morass of inconsistencies and uncertainties."

The Ministry of Health, in a memorandum to hospital authorities, has pointed out that public authorities are now on precisely the same footing as private persons as regards the period within which action may be brought against them. There is, thus, now a limited period of three years in the case of actions for damages for negligence, nuisance or breach of duty, where the damages are at least in part claimed in respect of personal injuries, which are defined as including any disease and any impairment of a person's physical or mental condition. For all other actions founded on simple contract or tort the limitation period of six years applies. The special provisions of the Limitation Act, 1939, continue to apply for persons who have been unable to bring an action owing to a disability. When a cause of action arose before June 4, 1954, the old period of limitation or the new Act will apply, whichever gives the later expiry date.

LIGHTS ON VEHICLES

Lawyers and others whose profession or occupation requires them to study the law are accustomed to the mental effort necessitated by changes in the law which require them to forget what they have painfully learned, and to learn something new. So far as the law relating to the use of vehicles is concerned this effort has to be made also by those who have no connexion with the law, but who run grave risk of making its acquaintance unless they are careful to be on the look-out for new provisions which are constantly being thought up and tried out in the hope of reducing the number of accidents on the road.

As from October 1, 1954, the provisions governing the lights to be displayed by vehicles will be found in the Road Transport Lighting Acts, 1927 to 1953, and in regulations made thereunder, the most important of which will be the Road Vehicles Lighting Regulations, 1954. These regulations consolidate with amendments the Road Vehicles Lighting Regulations, 1950, the Road Vehicles Lighting (Reversing Lights) Regulations, 1953 and reg. 3 of the Road Vehicles Lighting (Special Exemption) Regulations, 1949. The new regulations also deal with the fixing of reflectors and additional red rear lights.

The first thing to be noted is the definition regulation—No. 3—which has been enlarged very considerably. We note that, for the purposes of the regulations, "cycle" means a pedal bicycle, or tricycle, with no means of propulsion by mechanical power; "horse-drawn" means drawn by horses or other animals; "public service vehicle" means a mechanically propelled vehicle (including a trolley vehicle) designed and constructed for use and used for carrying passengers *whether for hire or reward or not* other than a mechanically propelled vehicle adapted to carry less than eight passengers exclusive of the driver. This definition is quite different from that in s. 121 of the Road Traffic Act, 1930, and it does seem a pity that a different expression could not have been found to avoid the confusion which may well arise from these two definitions. For instance why not call such vehicles "large passenger vehicles," which may more accurately describe them having regard to the definition in reg. 3. Though we mention only these definitions it is essential to note the others in order to appreciate the effect of the regulations which follow.

Regulations 5, 6 and 7 regulate the position of the obligatory front lamps and are a reproduction of regs. 5, 6 and 7 of the 1950 Regulations.

Regulation 8 is new, and deals with the position in which a dual-purpose lamp (*i.e.*, one which is both a front and a rear lamp) must be fixed when carried on a sidecar attached to a "motor" bicycle or on a land tractor, agricultural tractor, horse-drawn vehicle or vehicle drawn or propelled by hand. It will be remembered that s. 5 (1) of the Road Transport Lighting Act, 1953, provides that a vehicle need not carry separate lamps for different purposes if it carries one lamp which satisfies the requirements applicable to separate lamps carried for those purposes.

Regulation 9 is reg. 8 of the 1950 Regulations and deals further with the position on mechanically propelled vehicles of lamps which show a light to the front, with exceptions for vehicles registered first before January 1, 1952, for certain service vehicles constructed or adapted for combative purposes, and for certain other service vehicles supplied by their manufacturers before January 1, 1956.

Regulation 10 (old reg. 9) deals with the character of front lamps where light is derived from an acetylene burner or an electric bulb. Its provisions do not apply to direction indicators or to lamps whose light comes from a bulb or bulbs, the power of which does not exceed seven watts. This is the regulation which governs "head lamps" as they are commonly called, and contains an exception for "fog lamps" used only in conditions of fog or whilst snow is falling.

Regulations 11, 12 and 13 replace the old regs. 10, 11 and 12 and deal, respectively, with side deflection of front lamps, marking their wattage on front lamp bulbs, and the extinguishing of front lamps, whose power exceeds seven watts, while a vehicle is stationary. There are necessary exceptions to this last provision.

Regulations 5 to 13, inclusive, are contained in Part II of the Regulations. Part III consists of only two regulations, 14 and 15, and contains transitional provisions which are to apply to obligatory rear lamps on existing vehicles as follows:

(a) and (b) Existing cycles, with or without sidecar, and existing "motor" bicycles the cylinder capacity of which does not exceed 50 cubic centimetres, with or without sidecar, up to and including September 20, 1955, and

(c) and (d) New or existing trailers or agricultural implements drawn by existing vehicles, and all other existing vehicles other than existing trailers or agricultural implements drawn by new vehicles, up to and including September 30, 1956.

Regulation 15 (see old regulation 13) gives the position in which the obligatory rear light of vehicles coming within the above categories must be fixed up to the dates specified. Thereafter rear lights must comply with the provisions of Part IV of the regulations, which deals with the position of the two rear lamps which most vehicles will have in due course to carry by virtue of s. 2 of the Road Transport Lighting Act, 1953, brought into force by the Road Transport Lighting Act, 1953 (Commencement No. 1) Order, 1954. The provisions of s. 2 are postponed or deferred (we quote the Order) in respect of existing public service vehicles and of vehicles brought temporarily into Great Britain by persons resident outside the United Kingdom. We have referred already to the special definition of public service vehicles. By s. 5 of the 1927 Act (as amended by s. 2 (4) of the 1953 Act) "cycles" and "motor" bicycles without sidecar need only one rear lamp, and not two. The operative date for s. 2 of the 1953 Act, for vehicles which do not come within Part III of the 1954 regulations, is October 1, 1954. On and after that date all new vehicles, other than new trailers or agricultural implements drawn by existing vehicles (see Part III) and all trailers, or agricultural implements, new or old, drawn by new vehicles, must comply with the new provisions unless they come within the exceptions mentioned. A new vehicle is, in effect, one first supplied by the manufacturer or first registered after October 1, 1954.

Effect is given to the postponement (or deferment) in respect of existing public service vehicles by a provision in reg. 16 that reg. 18 shall not apply to the obligatory rear lamps on such vehicles. So far as vehicles belonging to visitors are concerned reg. 4 provides that Parts II to VI inclusive of the regulations shall not apply to vehicles brought temporarily into Great Britain by persons resident outside the United Kingdom, but such vehicles must comply in every respect with certain specified requirements of Annex 6 to the Convention in Road Traffic concluded at Geneva on September 19, 1949. This is not a new provision, reg. 4 of the 1950 Regulations is in similar terms. We refer later to reg. 29.

Regulation 17 provides that the position of obligatory rear lamps shall be as specified in sch. 1. This schedule classifies vehicles under eleven different headings and for each type of vehicles specifies the number of rear lamps, their lateral and longitudinal positions, the maximum height from the ground of the highest part of the illuminated area of the rear lamp and the minimum height of the lowest part. There is also a column for "varying or additional provisions." Locomotives and other vehicles in category 6 are generously treated in this respect having no less than five such provisions. This sounds worse than it is, because the schedule makes it quite clear what the position is with regard to any particular type of vehicle.

Regulation 18 governs the character of obligatory rear lamps, specifying minimum illuminated areas for the rear lamps of different types of vehicle and providing that electric bulbs in rear lamps shall have a power of not less than six watts except in the case of cycles, of "motor" bicycles with a cylinder capacity not exceeding 250 cubic centimetres, of sidecars attached thereto, of horse drawn or of hand drawn or propelled vehicles, of trailer fire pumps and of agricultural implements. Where two obligatory lamps are carried they must both have, when illuminated,

the same illuminated area and appearance and, if electrically operated, must be so wired that the failure of one bulb leaves the other unaffected. In case there is doubt as to what is meant by illuminated area we are told that it is the area of the orthogonal projection on a vertical plane at right angles to the longitudinal axis of the vehicle of that part of the lamp through which light is emitted.

Part V of the Regulations takes the place of the Road Vehicles Lighting (Reversing Lights) Regulations, 1953, which are repealed from October 1, when the 1954 regulations come into force. Regulations 19 to 22 inclusive reproduce the provisions of the repealed regulations.

Part VI contains the new requirements about reflectors on vehicles which come into force for all vehicles on October 1, 1954, as provided by s. 1 (8) of the 1953 Act. Part VI starts with reg. 22 and this makes, by sch. 2, provisions about the position of reflectors similar to those made by reg. 17 and sch. 1 for rear lights. Regulation 24 specifies the character of obligatory reflectors. To begin with, the reflector shall be so constructed that, if placed 100 feet away from and squarely facing a source of light throwing a beam of white light of an intensity of 2,000 candelas in the direction of the reflector the reflector when turned in any direction through an angle not exceeding $22\frac{1}{2}$ degrees shall reflect a beam of red light of an intensity of not less than one-thousandth of a candela in any direction making an angle not greater than three degrees with an imaginary line connecting the centres of the reflector and of the source of light aforesaid, and shall not reflect any letter, number or other mark. The vehicle user can take comfort from the fact that if, as seems probable, it is quite impossible for him to be sure that the reflector he buys and fits to his vehicle passes this test it is probably equally impossible for any policeman inspecting his vehicle to put it to the test.

The other provisions of reg. 24 deal with the size of the reflecting area (not less than the area of a circle $1\frac{1}{2}$ inches in diameter) and its shape, and require the reflector to be fixed in a vertical position facing squarely to the rear and to be kept clean and plainly visible from the rear.

Regulation 25 makes special provision for treating a group of reflectors as an obligatory reflector, and prescribes the conditions which must be complied with.

Part VII is headed "Exemption from and variation of requirements of the Acts." Regulation 26 deals with vehicles drawn or propelled by hand. Such a vehicle if, with its load, it is not more than $2\frac{1}{2}$ feet wide, 6 feet long and $4\frac{1}{2}$ feet high needs no lights or reflector if it is kept as near as possible to the near or left-hand edge of the carriageway. Motorists may wonder whether this exception is wholly justified. There are, in reg. 26, other provisions respecting hand drawn or propelled vehicles of other dimensions.

Regulation 27 deals with vehicles used for the conveyance of fire escapes.

Regulation 28 allows the Chief Officer of Police of any police area to give consent to vehicles standing without lights in an authorized parking place on a road when he is satisfied that that part of the road is adequately lighted.

Regulation 29 completes the exemption of vehicles brought temporarily into Great Britain by persons resident outside the United Kingdom by providing that s. 1 of the 1953 Act (as to reflectors) shall not apply to such vehicles.

This article does not pretend to explain or to set out all the provisions of the regulations, but merely to indicate their purport.

HENRY FIELDING, ESQ., JUSTICE OF THE PEACE

By DENYS VAL BAKER

To posterity, the name of Henry Fielding—who died 200 years ago on October 8, 1754—is famous as that of England's first great comic novelist, the author of *Tom Jones*, *Amelia*, and other books.

But in fact Fielding was equally well known in his lifetime in the very different sphere of the law, and when he died at the early age of 48 he had for some time been an eminent Bow Street magistrate, and justice of the peace for Westminster.

Like many of the children of well-to-do parents in the eighteenth century, Fielding was educated and intended for a law career. No doubt the fact that his father, a professional soldier, married the daughter of Sir Henry Gould, a Judge of the King's Bench, had some bearing on this development. (Indeed, Sir Henry left a large sum of money to his daughter, a part of which was used to meet the cost of her children's legal studies.)

After a childhood spent at the country home at East Stour, in Dorset, Fielding went to Eton, where he studied in company with many other young gentlemen destined to achieve fame—among them William Pitt, Lord Holland and Earl Camden, and also George Lyttelton, statesman and orator, who in later years gave Fielding much help in his career.

From Eton, Fielding went for two years to Leyden University, where he studied civil law, but after two years the financial difficulties of his father meant that these legal studies had to be curtailed drastically. Back in London, about early 1728, Fielding had for the time being to give up his adopted career, and turn to that for which, it quickly became apparent, he was immensely suited: literature.

Or to be more exact, playwriting. For the next few years Fielding literally lived on his wits, and wrote a whole series of witty and comic plays, sometimes running to five-acts, which lampooned customs and political movements of the day. The fact that the first of these, *Love in Several Masques*, was put on the Drury Lane Theatre when the author was a mere twenty years old, is some measure of Fielding's intellectual powers.

So successful were Fielding's satires—and in many cases, so accurate their barbs—that the Government of the day became worried, and it was largely owing to the playwright's "undesirable" popularity that plans were put afoot to bring in preventive legislation. After much party wrangling, and despite courageous opposition by Lord Chesterfield, known as "the second Cicero," Fielding's opponents had their way and in June, 1737, the Licensing Act received Royal Assent. Under this the number of theatres was limited, and all dramatic writers were compelled to obtain a licence from the Lord Chamberlain.

Thus at the age of 31, with a wife and children to support, Fielding was faced with the virtual end of a most promising theatrical career (for, and to his credit, he refused to write mere pot-boilers or restrain his comments). It was then that despite his age, he decided to return to his original profession and qualify for the bar.

In November, 1737, Henry Fielding was admitted as a student of the Middle Temple, and from all accounts he applied himself as diligently to the law as he had done to the stage. According to one record he lived a life full of pleasure as much as work, for "he has been frequently known, by his intimates to retire late at night from a tavern to his chambers, and there read, and make extracts from, the most abstruse authors, for several hours before he went to bed; so powerful were the vigour of his constitution and the activity of his mind."

Be that as it may, on June 20, 1740, Fielding was "called," and there are subsequent records of him travelling the Western Circuit, and attending the Wiltshire sessions. At this time it appears that he had many friends among lawyers (many of them to be used as material in his novels), among them Lord Northington, supposed to be the original of the drunken barrister in Hogarth's picture, *Midnight Modern Conversation*. Fielding's cousin Henry Gould, who like his grandfather became a Judge, was another friend and colleague of Middle Temple days. From the large number of lawyers who subscribed to later books issued by Fielding, it would seem that he was popular among his colleagues.

In December, 1748, Henry Fielding was appointed a justice of the peace for Westminster, and shortly afterwards the county of Middlesex was added to his commission. He must have begun his magisterial work at once, for there is a record on December 9, 1748, of a person called John Salter, being committed to the Gatehouse by Henry Fielding, Esq., of Bow Street, Covent Garden.

At Bow Street, Fielding took up abode in a house belonging to the Duke of Bedford, and there he lived until shortly before his death (it was occupied subsequently by his blind half-brother and successor as magistrate, Sir John Fielding). From all accounts, while working hard at his magisterial tasks, Fielding continued to live well, and was renowned as keeping his table "open to all who had been his friends when young, and had impaired their own fortunes." The story is told in one of Horace Walpole's letters of a visitor to Fielding's establishment finding him "banqueting with a blind man, a whore, and three Irishmen, on some cold mutton and a bone of ham, both in one dish, and the dirtiest cloth." However, Walpole's maliciousness might have exaggerated this anecdote.

At all events, Fielding's professional aptitude was never questioned, and on May 12, 1749, he was unanimously chosen as chairman of the Quarter Sessions at Hicks's Hall, as the Clerkenwell Sessions House was then called. Shortly afterwards he delivered a charge to the Westminster Grand Jury which is regarded by many lawyers as a model exposition (ironically enough it denounced masquerades and theatres and dealt severely with libelling).

In those days London seems to have suffered to a great extent from lawlessness and violence, robbery, gang attacks and so on. In 1750, as a Bow Street magistrate with two years' hard experience behind him, Fielding produced a pamphlet entitled *An Inquiry into the Causes of the Late Increase of Robbers, etc., with some proposals for remedying this Growing Evil*.

Dedicated to Lord Hardwicke, the then Lord High Chancellor, the pamphlet dealt with the wave of luxury, drunkenness, gaming and other vices. In particular Fielding was alarmed about the "curse of gin-drinking," especially among the poorer classes, concluding that if it went on unchecked for another twenty years there would be few of the common people alive to drink gin. (A month later Hogarth's famous *Gin Lane* plate was issued, as if to underline with picture the force of Fielding's words). A direct result of Fielding's pamphlet was the bringing in of a Bill for restricting the Sale of Spirituous Liquors.

Meantime Fielding's other career as a novelist had progressed with unexpected success: *Joseph Andrews*, *Jonathan Wild*, *Tom Jones* had all appeared, and so too, at the end of 1751, had *Amelia*. In this latest novel there were many scenes about

prison life which testified to Fielding's real interest in his magisterial work. Another testimony is to be found in the notice which Fielding issued.

TO THE PUBLIC

All Persons who shall for the Future, suffer by Robbers, Burglars, Etc., are desired immediately to bring, or send, the best description they can of such Robbers, Etc., with the Time and Place and Circumstances of the Fact, to Henry Fielding, esq.; at his House in Bow Street.

In 1752, prompted "by the many horrid Murders committed within this last Year," Fielding issued a collection of cases, under the title of *Examples of the Interposition of Providence in the Detection and Punishment of Murder*. Copies of this pamphlet he freely distributed in court to "those whom it seemed calculated to profit."

At the beginning of August, 1753, Fielding was suffering very badly from gout, and prepared to go to Bath, being "fatigued to death with several long examinations, relating to five different murders, all committed within the space of a week, by different gangs of street robbers." Before he could leave he was summoned to Lincoln's Inn Fields by the Duke of Newcastle and asked to draw up a plan for putting an immediate end to the mail murders and robberies. This Fielding did, but his health worsened considerably, and he must have perhaps begun to suspect that his life was approaching an end. Nevertheless, he stayed in London to execute his plans, and with the aid of a known informer, and judicious expenditure of a grant of money, he actually broke up the main gang of "villains and cut-throats"—seven of them in custody, the rest driven out of town.

At this stage we get some picture of Fielding's financial position. It appears that this Bow Street appointment had not been very lucrative. "By composing, instead of inflaming, the quarrels of porters and beggars (which I blush when I say hath not been universally practised) and by refusing to take a shilling

from a man who most undoubtedly would not have had another left, I had reduced an income of about £500 a year of the dirtiest money upon earth to little more than £300, a considerable proportion of which remained with my clerk."

It was not long before Fielding was to set off on his ill-fated voyage to Lisbon—but before then he had produced another of his pamphlets, *Proposal for Making an Effectual Provision for the Poor*. This proposed the erection of a huge County-house, capable of housing 5,000 people, including work-rooms, prisons, an infirmary, etc. A detailed plan, accompanying, is merely another testimony to the intense application of Fielding's mind to any problem.

In June, 1754, as Fielding himself so sadly records in his posthumously published *Journal of a Voyage to Lisbon*, "the most melancholy sun I had ever beheld arose . . . By the light of this sun I was, in my own opinion, last to behold and take leave of some of those creatures on whom I doated with a mother-like fondness, guided by nature and passion, and uncured and unhardened by all the doctrine of that philosophical school where I had learned to bear pains and to despise death."

This was, indeed, a last voyage. A few months later, on October 8, 1754, at Lisbon, Henry Fielding died, far from most of his loved ones, though accompanied by his wife and daughter. He was buried on the hillside in the centre of the English cemetery, facing the Church of Estrella, where he lies to this day—the heavy sarcophagus, resting on a large base and surmounted by an urn, bearing the Latin inscription: *Luget Britannia Gremio non Dari Fovere Natum*. Remembered indeed for the great novelist he was, he also merits our respect for bearing with dignity the position of justice of the peace at a time when the law has to contend with much more violence and disrespect than now (in this he was worthily succeeded by his half-brother Sir John, of whom it is recorded that he knew more than 3,000 thieves by voices alone and could recognize them when brought into court).

INTERNATIONAL CONGRESS ON OLD AGE

A congress on old age arranged by the International Association of Gerontology was held in London on July 19-23 when about 350 representatives from overseas, including a large contingent from the American continent, discussed with about the same number from the British Isles some of the problems which are affecting all western countries, and some in the eastern hemisphere, owing to the continually increasing proportion of older people in the population. The congress was largely medical, but social aspects of the problem were examined not only by the doctors but by others who are concerned, directly and indirectly, with the administration of the financial, and social services provided for the old as for all ages under public and voluntary schemes. It was emphasized by more than one speaker, and was put clearly by the Minister of Health in opening the congress, that it is a cardinal principle that the aged shall not be looked on as a class apart. Geriatric medicine and psychiatry were amongst the matters discussed, and on this aspect the president, Dr. J. H. Sheldon, pointed out that the key to physical vigour in so many old people lies in their mental state and that nothing saps their physical strength more surely than the mental torpor that follows a loss of interest in life. He urged that it was essential to have regard to the facts which might precipitate this state of mind, such as loneliness and the loss of the sense of being still necessary to others.

Continued employment, as recommended in this country by the Ministry of Labour advisory committee on the employment of older men and women, was naturally another of the matters which was discussed, and the contributions from overseas showed how attempts are being made to deal with the matter in other countries. Mr. Alfred Roberts, C.B.E., a member of the General Council of the Trades Union Congress, said there was fairly general agreement among trade unionists on the committee's recommendation about engagement—namely, that the test should be capacity not age—but pointed out that even last year, and before the report of the committee was issued, 870,000 men and women over "normal" retirement ages were working in Britain, and that more than 230,000 of these were over seventy. In some parts of the United States there seems to be a greater degree of discrimination against employing the elderly than in this country and the discrimination sometimes starts at a much lower age. It was stated, for instance, that in New York a female secretary is "old" if she is over thirty-five. A survey in Illinois showed, however, that in a sample of over 3,000 clerical and other workers of sixty years and over employed by eighty-one different business organizations, more than two-thirds were considered by their supervisors as having no perceptible weaknesses which could be attributed to age and that seventy would be a more realistic age for compulsory retirement than sixty or sixty-five.

HEALTH AND WELFARE SERVICES

For those who cannot remain in active employment, it was agreed that more should be done by statutory bodies and voluntary organizations, through the health and welfare services, and in this connexion it was clear that the movement for the establishment of old people's clubs is becoming general. But in the United States, stress is laid on making these clubs both occupational as well as recreational centres. Continuous adult education was also advocated by some American speakers as a means for promoting usefulness and happiness in later life. The need for health education was also emphasized, and information was given about a health education programme which had been organized by the Minnesota State Department of Health. In Michigan, there have been experiments in arranging educational courses for persons from the late 40's into the middle 70's. Some of those who have taken the courses have been able to apply the knowledge so acquired in helping members of clubs and social centres to make use of their own residual skills.

On the social services generally, it seemed that nowhere else are there the same comprehensive arrangements as are provided in this country under the National Insurance and National Health Service schemes. Elsewhere there is not, however, the difficulty experienced here in integrating the various health services because in most of the other countries represented at the congress the same authority, such as each of the

Canadian provinces, has overall responsibility in this sphere. In some parts of the United States, the hospital, such as the Montefiore Hospital in New York, provides home care as well as hospital care and treatment. Although such an arrangement is not possible in this country under existing legislation it was shown that, with good will on the part of those concerned, it is possible to work out a close degree of integration between local authority and hospital services for the aged as under the simple and sensible arrangements in Berkshire where, as was explained by the county medical officer (Dr. G. W. H. Townsend) a geriatric consultant has been appointed jointly by the county council and the Oxford regional hospital board for the assessment of the needs of aged persons for whom the council is responsible and for clinical responsibility for aged patients admitted to hospital. As shown by another speaker, who was a doctor in general practice, much can also be done if the general practitioner makes full use of the local health services and if the local health authority plays its part in providing adequately those services which it may provide.

The congress must clearly have afforded good opportunities for the exchange of ideas and experience between those representing so many countries. The full congress report should contain much information which will be useful to those in this country as elsewhere who are concerned with implementing the generally accepted policy of helping people as they grow older to remain useful members of the community as long as possible and after then to spend their final days in happiness.

MISCELLANEOUS INFORMATION

LEEDS PROBATION REPORT

Probation homes and hostels are an important part of the probation system. Much depends upon the wise selection of the cases in which residence in a home or hostel is to be a requirement of the probation order. In his report for 1953, Mr. G. W. Appleyard, principal probation officer for the City of Leeds, has a good deal to say on this subject. As many of the cases received in Leeds hostels come from other areas, his observations should not be taken as criticism of any particular court, and magistrates and probation officers into whose hands the report falls may find it helpful.

Mr. Appleyard writes: "All too often the hostel is used as an end in itself, and not as a means to an end. For example, it is used as a lodging-house for a youth or girl without any family in this country, without any long-term thought being given to the probationer's well-being after the requirement of residence has expired. In other cases it seems to be used as an alternative to borstal training, for no very clear reason other than perhaps a feeling of reluctance to stigmatize a lad with borstal—showing a lack of appreciation of the purpose and content of borstal training and of the excellent rehabilitation being done both by the institutions and the after-care association. . . .

"Experience shows that certain types of cases are unlikely to respond to hostel training. These include the borderline mental defective who is unable to compete on equal terms with his colleagues in the hostel; the lad with a serious physical defect or psychological maladjustment, to a lesser extent epileptics, enuretics and homosexuals; the person with a long record of crime including prolonged institutional training, and the nomad who has no real disposition to settle but agrees to a hostel thinking that the alternative may be less pleasant." A few instances are given of what are considered unsuitable cases sent to the Leeds hostels.

In the introduction by the probation committee, it is stated that there has been a decided reduction in the figures of those under supervision and the possible reasons are dealt with in the report itself. The committee is pleased that this should be so, and, quite apart from the importance to the community which is reflected by the diminution, the case-loads of the officers are now reaching proportions which will lead to more detailed help being given in the individual case. The report shows that there has been a reduction, not only in supervision work, but also in matrimonial cases.

There has been a remarkable drop in the number of juveniles charged with indictable offences. This reduction of 194 is accounted for in the male juvenile group, a fall of approximately thirty per cent., and the statistics show that a considerable proportion of the decrease

was in the age group eight to eleven. If this tendency is maintained, says Mr. Appleyard, it will gradually work its way through the whole age range bringing an overall drop in the level of juvenile delinquency in the City. It is suggested that there is a connexion between this decrease and the decline in the number of matrimonial cases, which may well mean that there is less tension in the home. Further, it is pointed out that the age group eight to eleven suffered less than their older brothers and sisters from the disruptive effects of war. On the other hand, it is disquieting to find that there is still a high rate of delinquency among adolescents.

After-care work among ex-prisoners, which is sometimes dependent on the voluntary acceptance of help can be discouraging. Yet it is well worth while, because of what it can sometimes achieve. This report says: "In some cases the contact is one of a few days only, when the prisoner seeks material help only, at the same time making it clear that he does not intend to accept anything which will impinge upon his absolute freedom of action. In other cases the prisoner desires help in settling down in the community and is prepared to co-operate on an absolutely voluntary basis with the probation officer to achieve this end, because of this co-operation and understanding this latter type of case can be as satisfying as anything that is undertaken by a probation officer."

BEDFORDSHIRE WEIGHTS AND MEASURES REPORT

Recent reports of inspectors of weights and measures seem to indicate a general improvement in the standards of most traders, and prosecutions by inspectors are few in number. In his report for the year ending March 31, 1954, Mr. E. K. Udy, chief inspector for the Bedfordshire County Council, says that the staff are constantly mindful of the fact that the thousands of regulations and orders which now regulate the lives and actions of citizens can be, and often are, unwittingly transgressed, and that advice and caution will, in most cases, ensure future compliance. No prosecutions took place during the year under review.

Attention is called to the fact that there has been no consolidation of Weights and Measures Acts since 1878 and that revision is overdue. The point is also made that whereas the maximum penalty under the Acts is often £5, which is low in relation to the present value of money, the maximum penalties for offences against the Merchandise Marks Acts have been increased from £20 for a first offence to £100.

The continued shortage of fuel supplies makes necessary the continued vigilance of the inspectors, but happily the position in Bedfordshire has been satisfactory.

In spite of the many advantages in the sale of pre-packed foods, there is one danger which is indicated in this report.

"Shopkeepers are at times somewhat negligent in the storage of some of these pre-packed articles in not taking precautions to guard against loss of weight by evaporation, and they are reminded that packets of food liable to lose weight through evaporation should not be left lying on shelves or fixtures without check weighing at frequent intervals."

The method of testing weighbridges has undergone considerable improvement in recent years, and roller weights are being used in many areas. In Bedfordshire use was made during the year of the Roller Weights Hire Service. This enables a number of weighbridges to be tested in a comparatively short time. This report states that the equipment was hired from contractors for a four-day period, during which twenty-eight weighbridges were tested and six found to be in need of repair. Mr. Udy makes the following observations: "Many more local authorities are now providing their own roller weights service. Although such equipment would not be fully employed in testing weighbridges in a county of this size, the joint purchase of such equipment by adjoining local authorities would no doubt prove to be a useful and economic proposition, with the added advantage that the equipment would be available throughout the year for other tests as necessary, instead of for a brief hire period of four days. A number of new high capacity weighbridges have been installed in the county during the year, and the testing of these machines without roller weight equipment is a costly and lengthy operation. Such equipment would no doubt also prove of use to industrial undertakings if it were made available to them in connexion with load tests on cranes and other heavy factory machinery."

HEALTH CENTRES

It has not yet been possible to implement generally the provisions of the National Health Service Act, 1946, as to the establishment of health centres which it was thought would be an important asset in the administration of this service. In view, however, of the need for spending money on other branches of the service and particularly in connexion with mental health it is not surprising that there is little money available for this purpose. Progress in planning centres has also been slow because the Ministry of Health has rightly emphasized that great care is necessary in framing local arrangements under which general practitioners and others would be able to provide a service at the centre. In these circumstances development has been generally limited and is likely to be limited to areas of immediate need—usually new housing estates. These are likely to be the starting point, not only in the nature of the premises but in the services provided and in the relationship developed between the people giving service at the centre. It is useful, therefore, that through grants from the Nuffield Provincial Hospital Trust and the Rockefeller Foundation it has been possible to establish a rather different type of centre in Manchester which was opened recently by the Minister of Health. The cost of administration will be borne by the city council. A few other centres have been established in which local authority clinics are administered and in which general practitioners also see patients but a special feature of the Manchester centre is that it is intended to use it also for the instruction of undergraduates who will see the work of general practitioners and also of the local authority clinics. District nurses will undertake some treatments at the centre and later it is proposed that health visitors should also see some of their patients there. In view of its potential use for the training of undergraduates the University has met part of the cost. The centre is not of the precise type envisaged by the National Health Service and accordingly there will be no government grant towards the cost of its maintenance. As a pioneering experiment it will be the aim (1) to provide all necessary medical care for those in the area, (2) to demonstrate the need for the integration of preventive and curative services, (3) to provide for the teaching of undergraduates, and (4) to demonstrate how medical care can take into account social factors to promote socio-medical research. The practitioners working at the centre do so as part of their general practice but it is intended that they shall also be responsible for the local authority clinics provided for the school medical service and the maternity and child welfare service.

Even where a centre has been established by a local health authority with the approval of the Ministry of Health there has been difficulty in satisfying local doctors that they should carry out their work from the centre instead of from their own surgery. The *Manchester Guardian* referred in a recent editorial article to a possible compromise which had been thought out by two general practitioners as described in the *Medical World*, and is suggested as a plan for limited health centres. Under this scheme local authorities would build and equip centres which would not supersede the practitioners' individual surgeries, as was the original plan, but supplement them by providing certain facilities which practitioners should have but which many cannot manage on their own and for lack of which an excessive number of

patients are referred to hospital. It is suggested that among these facilities might be a small theatre for minor operations, nursing assistance, and a pathological service with perhaps other aids to diagnosis. The authors do not work out the economics of such a limited centre and the *Manchester Guardian* asks "Would an enterprising medical officer of health care to do so?"

READING—OFFICE OF TREASURER

In the abstract of accounts for the Borough of Reading which has just been published, the Borough Treasurer, Mr. G. C. Jones, has some interesting comments on the various titles given to the financial officers during the past seven centuries. He states: "In 1953 Reading celebrated the 700th anniversary of the granting of the first royal charter to the town. It is interesting to note the various titles given to the financial officers during these seven centuries. In 1432 the office was referred to as the 'chest-keeper'—in itself an implication that a 'chest' existed, or, as we may call it today, 'balances'."

Two years later the title became 'cofferer.' In 1456 it was changed to 'keeper of the chests,' implying that by then the town had acquired separate funds for different purposes. In 1488 a final decision was made: 'the names of cofferers abolished for ever,' and the title of Chamberlain was then used. In 1512 a reference exists to one of the 'cofferers,' and for many years cofferers it was!

In 1639 the new charter refers to 'Two who shall be called Chamberlains.' So we assume this title continued until 1835, when the title became 'treasurer.'

It was not until September 23, 1946, that the council decided to appoint a full-time borough treasurer, when the borough accountant took over that office. Reading was the eighty-third county borough to employ a full-time treasurer."

EMPLOYMENT OF ELDERLY WORKERS

Mr. le Gros Clark, M.A., is undertaking for the Nuffield Foundation studies of the social factors affecting continued employment of elderly workers, and the complete reports should be very useful in considering whether there are any steps which can be taken in various spheres of employment to enable older people to continue at work for as long as possible after they have reached pensionable age. The first study was made possible by the co-operation of the London County Council housing department in providing facilities for the author to study the later working lives of 320 building workers. The investigation shows that about seventy per cent. of men employed in this way were still effective at sixty-six years and about thirty per cent. at seventy. It also seemed to show that in at least seventeen per cent. of all cases measures of rehabilitation following an illness might have enabled a man to return for a longer period to his normal job. Other local authorities employing large numbers of operatives may feel it worth while to encourage similar investigations.

RESETTLEMENT OF DISABLED PERSONS

The report of the Ministry of Labour and National Service for last year describes the work of the Department generally and is of special interest as showing the progress which is being made in the resettlement of disabled persons. As in the previous year there was a decrease in the number on the register of disabled persons and a decline in the number unemployed. The standard quota of registered disabled persons which employers of twenty or more workers are required to employ remains at three per cent. of their total staffs. It is noted that employers generally are complying with their obligation in this respect and that government departments, though not subject to the statutory requirement, employ registered disabled persons to the extent of 5.5 per cent. of their total staffs.

Many disabled persons continue to receive rehabilitation at government training centres, 78.3 per cent. of those undertaking these courses at the end of the year were persons whose need for rehabilitation arose from recent sickness but 18.3 per cent. were persons with long-standing disability and 3.4 per cent. were able bodied unemployed persons with poor employment records in whose cases it was felt that employment prospects could be improved by a course of industrial rehabilitation. The value of the training is shown by the fact that 75.5 per cent. of those who completed courses commenced employment within three months of leaving a unit or began courses of training likely to lead to resettlement in employment. Courses of training of the adult blind for employment under normal conditions continued to be provided in approved training establishments. One of the most significant trends during recent years in connexion with the resettlement of blind persons has been the widening of opportunities for their employment in ordinary industry. It is satisfactory to learn that as a result of the efforts of the specialist placing services operated by local authorities and voluntary organizations acting on their behalf in close collaboration with the Ministry the number of blind persons so-employed continues to increase.

THE ACCOUNT OF MORTALITY IN 1950

The Medical Text (*i.e.*, commentary) Volume of the Registrar-General's Statistical Review of England and Wales for 1950 considers the significance of the mortality and notification statistics for that year and sets them in perspective in relation to the statistics for earlier years. Account is taken of the changes in classification of causes of death introduced in 1950. (This volume is not concerned directly with figures for years following 1950, which have already been published in Part I for those years, nor is it concerned with the results of morbidity inquiries, other than notifiable diseases, which are being published separately.) In general, in the absence of any notable epidemic or abnormal weather, the mortality of 1950 followed a normal pattern; it was not materially affected by the influenza epidemic which began to develop at the end of the year.

A comparison of mortality in 1950 with that in 1841-50 shows how the younger ages have reaped much benefit from the decline in mortality while the older ages have reaped little; for example, the death-rate of girls of present school-age was only six *per cent.* of what it was 100 years ago, while that of men aged sixty-five to eighty-four was still eighty-one *per cent.* of what it used to be. (P. 14.)

The risk of death in the first year is still greater than in any other year under the age of sixty. In 1950, for the first time, deaths in the first week of life actually outnumbered those in the remainder of the first year. Ninety-four *per cent.* of the deaths in the first week of life were attributed to causes (*e.g.*, immaturity, congenital malformations) which are considered to be determined by influences operating before or at birth. The fact that similar influences affect the stillbirth rate has led to combination of stillbirths with deaths in the first week of life in the concept of perinatal mortality, which is discussed.

Evidence as to whether there has been any decline in morbidity from tuberculosis, accompanying the decline in mortality since 1947 (except at ages over sixty-five) is considered and a comparison of notification rates in 1950 with those for 1938 is made. It is shown that the experience of different age groups has been different and it is suggested that, while the high notification rates in 1950 compared with 1938 can be largely discounted, certain groups were perhaps still suffering a higher incidence of tuberculosis in 1950 than before the war. (Since 1950, mortality has continued to decline much faster than the notification rate.)

The difference in suicide rates between different towns are remarkable. They range from 287 per million population in a Metropolitan borough to 33 per million in a county borough in Yorkshire. Within the single county of Lancashire rates varied from 259 per million to 44 per million in different towns.

DORSET WEIGHTS AND MEASURES REPORT

The first part of the report of Mr. W. Roger Breed, Chief Inspector for the Dorset County Council, for the year ended March 31, is devoted to some criticism of legislation which, though in his opinion obsolete or becoming obsolete, continues in force and has to be administered at some cost in time and money.

"A typical example of this," he says, "may be found in the continued registration of premises where butter and margarine or margarine cheese are manufactured, blended or stored. The registration of such premises by food and drugs authorities and their subsequent inspection at the hands of officers of the Ministry of Agriculture and Fisheries may have been necessary in 1875 or yet in 1900 but it is, to say the least, a requirement which is now no longer necessary and which serves no apparent or useful purpose."

Another example cited dates from 1933 and deals with the registration of premises where household ammonia and common yet poisonous disinfectants are sold.

While acknowledging the merits of the Sale of Food (Weights and Measures) Act, 1926, and subsequent legislation, Mr. Breed still feels that housewives do not get all the help and protection they need. They should, he considers, be able "to see at a glance and not after diligent search or with the aid of magnifying glasses (a) what they are buying and (b) the quantity they are receiving described in easily recognizable units of weight or measure—preferably in standard sizes or uniform amounts—so that the comparison between goods of the same kind may be made without the aid of complicated mathematical calculations and without the aid of an expert knowledge of the lesser known and often confusing subdivisions of the imperial system of weights and measures." Particulars are given about the sale of sauce in bottles of many different sizes, sold sometimes by weight, sometimes by measure. The same is said to apply to many other articles of food. In many kinds of food it would be easy to have a uniform standard of weight for packages, which would make comparison of prices simple.

"While, therefore, the intention of Parliament under the Pre-packed Food (Weights and Measures) Marking Orders was good the law has been applied by the manufacturers of certain items of food so as to obscure the vital information which it was surely intended should be readily available to all purchasers."

On the subject of eggs Mr. Breed shows some scepticism, but he also makes a practical suggestion.

"The exceptionally mild conditions of the past winter, encouraged no doubt by the guarantees of fixed prices by the Ministry of Food, provided the background for a considerable increase in the availability of eggs of a reasonable and most refreshing standard of freshness. At times the number of eggs available created a glut on the market which prompted sellers to return with all speed to the well-known pre-war appellations of 'fresh,' 'new laid,' 'local new laid' or 'fresh farm' eggs.

"Fortunately, most of us have been deceived so often by such limited licence that we are no longer misled but we may still regret that descriptions of this kind are applied when the retailer has often little or no knowledge of the history of the egg so described.

"As the great majority of all eggs sold by retail pass through the hands of the established packing and grading stations it would be of considerable assistance to both retailers and consumers if the day and the month of grading could be incorporated in the same indelible stamp as that already used to show packing station identification number and the category into which the egg has fallen by reason of its weight."

The situation in Dorset so far as milk is concerned is satisfactory, and even shows an improvement on previous years. The report shows how methods of testing have become increasingly accurate and have made the "Appeal to Cow" method desirable in cases of doubt about added water.

The astonishing number of categories into which coal, including anthracite, is now divided, makes it difficult for purchasers to know what to buy and what is the quality of what they buy. This report urges that a speedy return to pre-war practice when no more than five main categories proved an ample sufficiency would lend confidence to purchasers and would be welcomed by all honest merchants whose present labour difficulties are in no way eased by the complicated price and quality schedules they are called upon to observe.

The report as a whole shows a satisfactory state of affairs in the county in the year under review, and the need for prosecution in every department of the duties of the inspectors appears to be diminishing. This is creditable to inspectors and traders.

VISITING FORCES

By the Visiting Forces (Designation) (Colonies) (Amendment) Order 1954, S.I. No. 1041, the Visiting Forces (Designation) Order, 1954, so far as it relates to U.S.A., is extended to Gibraltar.

FRIENDLY SOCIETIES

By the Friendly Societies (Date of Repeal of Enactments) Order, 1954, S.I. No. 1094, August 19, 1954, is appointed as the day from which enactments specified in Industrial Assurance and Friendly Societies Act, 1948, sch. VI, part. I, are repealed by s. 19 (4) (b) of that Act.

JUVENILE DELINQUENCY IN CANADA

Juvenile delinquency was one of the subjects which was discussed at the last conference of magistrates and juvenile court judges in British Columbia. It was stated that a survey of 750 children who had been before the Vancouver Juvenile Court showed that 45.3 *per cent.* of the children came from broken homes and that very few came from middle class areas, which indicated that stable parents with adequate housing facilities, opportunities for proper education and health recreational facilities together with some religious training were factors in preventing delinquency. The divorce rate has increased six *per cent.* in Canada since 1947 and the increase for British Columbia was fourteen *per cent.* It was accepted that parental neglect or irresponsibility is not the sole cause of juvenile delinquency but those who investigated the matter in Vancouver were satisfied that it was a major cause and one that demanded serious consideration of preventive measures.

At the 1951 conference there was much discussion on a proposal to reduce the statutory age of a juvenile from eighteen to sixteen years, but this was opposed by a large majority of those present. In Alberta, however following a great increase in juvenile delinquency the definition of "child" was altered to mean "any boy apparently or actually under the age of sixteen years or any girl of eighteen years," so taking older boys out of the jurisdiction of the juvenile courts. At the same time the responsibility for all juvenile delinquent matters was transferred from the Department of Public Welfare to the Attorney-General's Department; also, for the first time, full-time qualified probation officers were appointed instead of welfare workers, Salvation Army officers and others. In British Columbia a child of fourteen years or older can be dealt with in a magistrates' court instead of in a juvenile court if charged with an indictable offence. The Canadian Bar Association has suggested that certain other offences by juveniles should also be transferred to the magistrates' court such as those committed by prostitutes and drug addicts.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 74.

FISH POACHERS IN SCOTLAND

Three men appeared recently at Oban Sheriff Court charged with being found in possession of 45 sea trout in circumstances giving reasonable ground for suspecting that they had been taken illegally, contrary to s. 7 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act, 1951.

For the prosecution, evidence was given by a retired Army officer and his wife that they saw a motor boat towing a white rowing boat from Loch Don early on the morning of August 17 last. The officer, a colonel, saw a net being hauled into the white boat close inshore. He shouted to the men but they left in the direction of Oban. The officer's wife went in pursuit of the three men in a rowing boat with a neighbour, but as they failed to stop the men a telephone message was sent to the Oban police, who arrested the men at Portbeg Pier.

One of the defendants gave evidence denying that they had been anywhere near Loch Don on the morning in question. He claimed that the sea trout had been caught in another loch where they had been given permission to fish.

The men were found guilty and the one who gave evidence was fined £20, and the others £15 each. Defendants' net was confiscated and the fish found in their possession were ordered to be sold.

COMMENT

Section 7 of the Act provides that if any person is found in possession of any salmon or trout in circumstances which afford reasonable ground for suspecting that he has obtained possession of them as a result of his having committed an offence against any of the provisions of ss. 1-4 of the Act, such person may be charged with unlawful possession of such salmon or trout.

Sections 1-4 prohibit poaching, the taking of fish or salmon in any inland water except by rod and line or by net and coble, and the using of explosive or other noxious substance for the destruction of fish.

By s. 18 of the Act offences under s. 7 may be punished on summary conviction in the case of a first offence by a fine of £20, and upon a second or subsequent conviction by three months' imprisonment and a fine of £50.

R.L.H.

No. 75.

ANOTHER FISHING STORY

A Bradford resident was charged at Kirkby Lonsdale Magistrates' Court recently with fishing for salmon or trout otherwise than by means of an instrument which he was duly licensed to use for that purpose contrary to s. 63 of the Salmon and Freshwater Fisheries Act, 1923. A second charge alleged that he had failed to produce his licence to fish when lawfully requested so to do, contrary to s. 64 of the Act, and he was further charged with failing to state correctly his name and address when found fishing for salmon or trout, contrary to the same section.

For the prosecution, evidence was given that a water bailiff saw the defendant fishing in the River Lune, near Devil's Bridge. He asked the defendant for his licence, which the latter was unable to produce, and defendant, when asked for his name and address, gave a false one.

As defendant rode away on his motor cycle combination, the water bailiff took the registration number of his machine, and when correspondence addressed to defendant was returned undelivered, defendant was traced through the registration number.

In a statement read in court, defendant, who did not appear, stated that he had no intention of fishing for salmon as his tackle was of no use for that purpose. He said he had foolishly panicked and gave a wrong name and address.

Defendant was fined £1 on the first charge, 15s. on the second and £7 on the third. He was also ordered to pay costs amounting to £6 5s.

COMMENT

By s. 63 of the Act a person who, in a fishery district, fishes for or takes salmon or trout otherwise than by means of an instrument which he is duly licensed to use for that purpose, commits an offence, and by the following section constables, water bailiffs and members of a fishery board may require any person found fishing for salmon or trout within a river board area, to produce the licence legalizing such fishing and to furnish his name and address, and a person who fails to do so or fails to state correctly his name and address, is guilty of an offence.

Section 74 provides that offenders under ss. 63 and 64 are liable in the case of a first offence to a fine of £50 and to forfeiture of any fish

illegally taken and any instrument in respect of which the offence is committed, and on a third or subsequent conviction an offender may be imprisoned for three months.

(The writer is indebted to Mr. Leslie G. Powell, Clerk to the Kirkby Lonsdale Justices, for information in regard to this case.) R.L.H.

No. 76.

THE TRIBULATIONS OF AN ADMIRALTY COURIER

Two partners in a firm of estate agents pleaded Not Guilty when charged at Bath Magistrates' Court recently with wilfully interfering with the convenience of a passenger on the railway whilst they were in a carriage on the railway, contrary to byelaw 14 of the Great Western Railway Company.

For the prosecution it was stated that the byelaw was enforceable by the British Transport Commission by virtue of the Transport Acts, 1947 and 1953, and the British Transport Commission (Executives) Order, 1953.

For the prosecution, evidence was given that upon the arrival at Bath of a train from Taunton to Paddington the two defendants were occupying a first-class compartment. This bore large labels headed by a crown and "O.H.M.S." in red and underneath typewritten "Reserve for Admiralty courier, Taunton to Paddington joining Bath. 1st class. 4.35 p.m." The courier who was waiting on the platform at Bath with thirty-six bags of confidential mail on a truck, found the defendants occupying the compartment. It was one of the duties of the courier not to allow anyone else to travel in the compartment with him as he was in sole charge of the mail. The defendants were asked to move, first by a porter and then by two railway policemen. To one of the policemen, one of the defendants said "You will have to throw us out". He also said "The whole compartment for one man! I never heard of such impertinence".

It became necessary to provide the courier with another first class compartment which was not so convenient as that which had been reserved, as the latter opened direct upon the platform at Bath so that two porters could throw the various packages to each other and little delay was caused in loading (the process being reversed at Paddington). The alternative compartment provided was along the corridor. Defendants' attitude caused the train to be delayed for some minutes.

Two days after the alleged offence, one defendant wrote to the railway authorities stating that having joined the train at Bristol he did not see the notice until the train was well on the way, and that when he did so, at 6.20 p.m., he assumed that it was an old notice which had not been removed.

For the defendants, who accepted the evidence of the prosecution except as to certain conversations and the interpretations to be put upon them, it was contended (i) that the Transport Commission had no authority to reserve seats for passengers either under the byelaws or otherwise, (ii) that the undated notice found on an empty compartment two hours after the time stated justified the defendants using the compartment, (iii) that the courier was not a passenger (or person "on the railway") at the time of their refusal, (iv) that the inconvenience (if any) was not to the courier but to the railway servants, and lastly (v) that if inconvenience was so caused it was not done "wilfully" but with a legitimate excuse.

The court decided to convict, the chairman stating that the magistrates felt that to say the least the defendants had been guilty of very ungentlemanly conduct, and fined each defendant £1, and ordered each of them to pay £7 9s. 6d. costs.

(The writer is indebted to Mr. Albert Marshall, the clerk to the Bath Justices, for information in regard to this case.) R.L.H.

PENALTIES

York—August, 1954. Causing birds unnecessary suffering. Two defendants, each fined £5 and to pay £3 5s. costs. Defendants, an eighteen year old soldier and a seventeen year old bricklayer, tried unsuccessfully to drown some fledglings. After knocking the nest to the ground they then struck lighted matches which they dropped through the birds' beaks into their throats, finally killing them with an airgun.

Aberdeen Sheriff Court—August, 1954—Illegally taking three salmon and a sea-trout from the river. Two defendants—one defendant fined £25, the other £15. The men placed a cage 6' long, 4' wide and a foot deep, into the mouth of a fish pass in the River Don to trap salmon. The first defendant had six previous convictions, the second three.

Bishop Auckland—August, 1954—(1) Driving a car while under the influence of drink; (2) driving when not accompanied by a qualified driver; (3) failing to display "L" plates. (1) Fined £20; (2) fined £5; (3) fined £3. To pay £8 6s. costs. Defendant, a thirty year old man, was stated to have held sixteen provisional licences.

South Shields—August, 1954—When in charge of a steamship leaving the vessel without a competent person on board. Fined £3. Defendant infringed a byelaw of the Tyne Improvement Commissioners made in 1884. Maximum penalty under the byelaw £5.

Ross-on-Wye—August, 1954—(1) Failing to isolate a pig for twenty-eight days after its purchase; (2) failing to keep a record of the pig's movements. (1) Fined £2; (2) fined £1.

West London—August, 1954—Being in unauthorized possession of Indian hemp. Four months' imprisonment. Defendant was found to have 3,000 grains in the pocket of a raincoat and a further 5,000 grains in a dressing table drawer. This quantity would be sufficient to make 1,300 cigarettes selling at 2s. 6d. each, but police said there was no evidence defendant used the hemp for commercial purposes, and he frankly admitted smoking the hemp himself.

PERSONALIA

APPOINTMENTS

Mr. Geoffrey Seed Gibbons has been appointed clerk to the justices for the Nuneaton and Atherstone petty sessional divisions. Mr. Gibbons has been in private practice at Southampton, prior to which he acted as deputy clerk to the justices for the county borough of Southampton.

Superintendent H. E. Sanders, deputy chief constable of Newport, has been appointed (subject to Home Office approval) chief constable of Dewsbury. Mr. Sanders, who is forty, served in the Luton borough force and the Bedfordshire constabulary before being appointed to Newport in 1952. He succeeds Mr. R. W. Walker, recently appointed chief constable of Eastbourne.

Mr. W. B. Evans has been appointed male clerical assistant in the office of the clerk to the justices for Group 2 at Llandilo.

RETIREMENTS

Sir Charles Maby has retired after twenty-four years' service as chief constable of Bristol.

Mr. Alfred E. I. Curtis has retired from his position as clerk to Neath borough justices. He had held the position for thirty-six years, his grandfather and father holding it before him. Details of his retirement as town clerk of Neath were given at 118 J.P.N. 442.

Detective Superintendent A. C. Rawlins, chief of Buckinghamshire C.I.D., has retired.

OBITUARY

Mr. J. L. Arlidge, former clerk to the Brixham U.D.C., town clerk of Bilton, Staffs., and solicitor of the Paignton U.D.C., has died in his eightieth year. He was admitted in 1910.

Mr. Herbert Hales, former clerk to the South Cambridgeshire R.D.C., from 1935 until his retirement in 1950, has died, aged sixty-nine. Mr. Hales began his career with the former Linton R.D.C. (which was subsequently merged into the South Cambridgeshire R.D.C.) and became deputy clerk of the council in 1921.

NOTICES

The next quarter sessions for the borough of Northampton will be held at the Court House, Campbell Square, on Thursday, September 23, at 11 a.m.

The next court of quarter sessions for the borough of Grantham will be held in the Guildhall, on Wednesday, September 22, 1954, at 11 a.m.

The next quarterly meeting of the Lawyers Christian Fellowship will be held at the Law Society's Hall, Bell Yard, W.C.2, on Wednesday, September 22, 1954, at 6 p.m. Tea will be available from 5.30 p.m. The meeting, to which all lawyers, law students and visitors are warmly welcomed, will be addressed by the Reverend John Stott, M.A., Vicar of All Souls, Langham Place, on the subject of "After the Crusade, What Next?"

The Probation Officers' Christian Fellowship is holding an open meeting at St. John's Hall, Monck St., Victoria, S.W.1., on Friday, October 1, at 6 p.m. (Tea and biscuits 5.30 p.m.) Mr. Frank J. Powell (metropolitan magistrate) will be speaking on "Roots of Crime." An invitation is extended to all probation officers, magistrates, lawyers, and members of the police force.

CORRESPONDENCE

*The Editor,
Justice of the Peace and
Local Government Review.*

DEAR SIR,

COMMITTAL TO ASSIZES OR QUARTER SESSIONS. MAGISTRATES' COURTS ACT, 1952, s. 9 (1) (a)

One hears a good deal about overcrowding in prisons and it would be interesting to know to what extent the effect of the above sub-section "if the offence for which he is committed is triable by quarter sessions, to the next quarter sessions," is adding to this overcrowding. Where examining justices decide that the remand must be in custody, a literal reading of this sub-section means that although assizes may fall weeks before quarter sessions the gaol must continue to hold the accused although it used to be understood a Judge travelled circuit to relieve the gaols. Besides accentuating gaol administrative difficulties, it is unfair to the accused who may be found not guilty. How this particular sub-section was allowed to creep in, I am not sure, but I submit that even if the work of a Judge on Assize is increased a little, prison administrative difficulties and the liberty of the subject are more important factors and outweigh any problems of increasing the calendar at assizes. There is another point, too, to consider; there are degrees of culpability in respect of offences prosecuted under the same sections of an Act of Parliament and examining justices ought to be able to exercise their discretion as to whether the committal for trial should be to Assizes or to quarter sessions. Then there are the cases where a defendant may often have appeared at quarter sessions but never at Assizes, where if not welcome he would be duly impressed.

"It is true that s. 11 of this Act makes some provision for the court committing a defendant for trial to a court of Assize but even then the discretion formerly reposed in committing justices, is much restricted, and what Justices may consider 'serious delay' or 'inconvenience' may not accord with the views of some of Her Majesty's Judges. For example, if quarter sessions are held on September 30, and Assizes in mid-November or even December and justices commit for trial on October 1, would it be deemed serious delay if the committal were made to the next quarter sessions in January or is it suggested there should be a committal to the quarter sessions for some other place (Criminal Justice Act, 1925, s. 14)."

Yours faithfully,

CHAS. PROCTOR,

Clerk to the Justices.

Borough Justices' Clerk's Office,
40, Gluman Gate,
Chesterfield.

ADDITIONS TO COMMISSIONS

BERKS COUNTY

Frederick Andrews, 79, Orchard Way, Wantage.
Mrs. Mary Eileen Baring, Ardington House, Wantage.
Mrs. Rosalie Anne Gresham Cooke, Hidden Cottage, Hungerford.
Alan Anthony Colleton Godsal, Haines Hill, Twyford, Reading.
Mrs. Margaret Kempton, The Cottage, Witheridge Hill, Henley-on-Thames.
Mrs. Hestor Knight, Lockinge Manor, Wantage.

HOVE BOROUGH

Mrs. Jenifer Anne Bradshaw, 28, Wilbury Road, Hove.
Eric Sidney Diplock, 30, Hove Park Road, Hove.
Norman Randall Elliott, O.B.E., 10, Queen's Gardens, Hove 3.
John Lawrence, 52, Rowan Avenue, Hove 4.
William Quarterus McLarnon, 87, Church Road, Hove 3.
Mrs. Irma Pakenham Sparling, Furse Hill House, Hove.
Harold Deverell Stephen Stiles, 7, Lloyd Road, Hove.

HERTFORD COUNTY

Mrs. Dorothy Evelyn Crick, 34, Wordsworth Road, Harpenden.
Miss Caroline Ida Sharpe, 30, Stanhope Road, St. Albans.
The Lady Farrer, Puddephatts Farm, Markyate, St. Albans.

NORFOLK COUNTY

Thomas Charles Grange, The Buttlands, Wells-next-the-Sea.
Frederick George Jordan, Dalgairn, Norfolk Road, Sheringham.
William Arthur Ogden, The Rookery, Chapel Lane, Wymondham.
Albert Edward Terrington, Hollycoft Road, Emneth, Norfolk.

UN-AMERICAN TROUT

A news item in *The Times*, under the above heading, reports the presidential veto upon a Bill, recently approved by Congress, which would have required all restaurants selling foreign trout to proclaim, in public notices, the national origin of the fish. The President has found the Bill "unduly oppressive against foreign trade," and considers that "the tariff regulations provide sufficient safeguards against fraud." The original proposals, even more drastic, would have required the foreign origin to be marked on the fish's tail; they were, so to speak, watered down before the Bill reached its final form; but even so it does not now seem likely to become law.

This latest manifestation of militant nationalism, of intolerance towards anything which is of a suspectedly non-indigenous nature, affords scope for serious reflection. A country which has drawn for its population upon all the nations of Europe (and many beyond), taken its language from Jacobean England, adopted its musical forms from primitive Africa, founded its Constitution on the political philosophy of Revolutionary France, and is now bidding fair to create an inquisitorial system like that of sixteenth century Spain—such a country can surely permit the importation of a foreign delicacy or two without the risk of subverting its citizens and overturning the Republic. There is already a stout and lofty tariff-wall against which (as some eloquent senator is bound before long to boast) British motorcars, Russian timber, Danish butter and Portuguese sardines will batter their wings in vain; nobody (except the exporters) will suffer hardship, since native American products are available to fulfil the needs of the population in these commodities. But if the immigration regulations are to be tightened up, on McCarthy principles, against Stilton cheeses, Bordeaux wines, Neapolitan spaghetti and Viennese *leberwurst*—against Turkish Delight, Swiss chocolate, Indian curry and Chinese tea—the American people will be deprived of much that makes meals succulent and life more gracious.

One thing to be observed is the peculiarly selective brand of nationalism which the recent Bill enshrines. We have discerned no prejudice, for example, against Scotch whisky, nor any desire to exclude it, on patriotic grounds, from American shores. If ever the time comes when economic sanctions have to be applied against the United States, the denial of supplies of "Scotch" is almost certain to bring her to her knees without bloodshed—unless, of course, sheer desperation drives her to overt warlike acts. It is good to know that in one respect at least our ancient civilization has still something to offer the upstart West. One of the earliest acts of rebellion which led up to the War of Independence was the throwing into Boston Harbour of 340 chests of English tea. Similar treatment accorded to 340 bottles of Scotch whisky would be quite likely to accomplish what Shaw foretold in *The Apple-Cart*—an application by the United States for permission to rejoin the British Commonwealth. And rightly so!

Reverting to the actual contents of the Bill, we have been endeavouring to find some reason for the discrimination therein evinced against the harmless trout. Research shows that he is closely related to the salmon—his biological name is, in fact, *salmo trutta*. The same source of information discloses that the so-called "trout" of North America is not really a trout at all, but that the name is given in the Eastern States to the char, and on the Pacific Coast to the steelhead, which "is maculated upon its caudal fin and often has a *red band* along the side of the body." These stigmata are obviously sufficient to make it ideologically suspect to any true-blue Republican;

and on the face of things one would have imagined the authorities welcoming a visitor of unspotted purity, free from any scarlet taint, from abroad. However, it seems that these deplorable characteristics in the native fish are enough to condemn the whole species. There is not enough water, apparently, in the whole Pacific Ocean to wash out the "damned spots", or to get rid of the "red band" either; these blemishes, like the blood on Macbeth's guilty hand,

"will rather
The multitudinous seas incarnadine,
Making the green one red."

Going more deeply into the subject, we find enough damning evidence to satisfy several one-man senatorial committees. "The trout of the Black Sea, and of the Caspian and Aral seas, has x-shaped blackish spots; it ascends rivers to breed, and forms colonies in every lake and river that it enters." Nobody but a fellow-traveller, wilfully blind to the nefarious motives that lurk behind the most innocent-looking activities in that part of the world, could fail to read between the lines of this statement—the mysterious unknown that x denotes, the villainy that breaks out in "blackish spots," the insidious penetration and relentless building-up of subversive colonies. And, finally, "a characteristic of the trout is its very large mouth, the maxillary extending in the bigger specimens to well beyond the eye." In these days, when in national defence the requirements of security are paramount, when the minions of alien intelligence-services lurk behind every curtain and under every table, and the tentacles of espionage fasten themselves upon the unwary lip; when you can scarcely open your mouth without putting your foot in it—in these days, we say, an outsize jaw and a gaping mouth are about the most dangerous characteristics that any creature—man, woman or fish—can be cursed withal. And since (as the Encyclopaedia tells us) the trout is a sea-fish as well as a denizen of fresh water, he may well observe, with those glassy-looking eyes "beyond which the maxillary extends," naval dispositions, in the super- and sub-marine spheres, which careless talk from that big mouth of his might reveal to a potential enemy. Perhaps the Congress was right, after all, to make statutory provision for warning idle babblers of the presence of a foreign observer and listener upon (not under) the dining-table, and the President's veto will no doubt be overridden by an alert and patriotic House. A.L.P.

NOTICES

The West Midlands Group Council of the Royal Institute of Public Administration and the Extra-mural Department of the University of Birmingham are holding a one day conference on "The Employment of Persons in Older Age Groups," at Birmingham University on Tuesday, September 28, at 11 a.m. Lord Amulree will be the speaker on the subject of the conference. The conference fee is £1 1s. per representative (corporate members 10s. 6d.). Further details can be obtained from the secretary, Mr. J. Atkinson, 72 Green Lanes, Sutton Coldfield.

A Votive Mass of the Holy Ghost (the Red Mass) will be celebrated on Friday, October 1, 1954 (the opening of the Michaelmas Law Term), at Westminster Cathedral, at 11.30 a.m., in the presence of His Eminence Cardinal Griffin, Archbishop of Westminster. Celebrant: the Rt. Reverend Monsignor Charles L. H. Duchemin. Counsel will robe in the Chapter Room at the Cathedral. The seats behind counsel will be reserved for solicitors. Those desirous of attending should inform the Hon. Secretary, Society of Our Lady of Good Counsel, 6, Maiden Lane, W.C.2, so that an adequate number of seats may be reserved.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—Death of adopter—Position of widow who did not adopt—Order made under Act of 1926—Widow less than twenty-one years older than infant.

Before the Adoption Act, 1950, came into operation, AB adopted a child with his wife as the consenting spouse, the reason for the application being made in this manner was that the wife was not twenty-one years older than the infant. AB has now died and I shall be pleased if you would let me have your opinion as to what parental rights the widow now has. As the widow can never be twenty-one years older than the infant, it is not possible for her to make an application for an adoption order.

S. APPLEBEAN.

Answer.

The widow of AB has no parental rights, being simply in the position of a stepmother. She is not a relative within the meaning of s. 45 of the Act, and cannot adopt the infant, but if the child is without any guardian the widow might apply to be appointed guardian under s. 4 (2a) of the Guardianship of Infants Act, 1925.

2.—Children Act, 1948—Affiliation Order under s. 26—Payments direct to local authority—Revival of order.

I should be glad of your opinion on the two following queries:

(1) By virtue of s. 26 (1) of the Children Act, 1948, a local authority may obtain an affiliation order in respect of an illegitimate child in the circumstances prescribed by the section.

Section 86 of the Children and Young Persons Act, 1933, provides that payments to be made under such order shall be made to the person entitled to receive contributions in respect of the child, i.e., the local authority in this case.

There is a general authority under s. 52 (2) of the Magistrates' Courts Act, 1952, that "the payments shall be made through the clerk of the court unless representations are made, etc. . . ."

Assuming no such representations are made, can the court in such a case as this, direct that payments shall be made direct to the local authority?

The statutory forms prescribed by the Bastardy Forms Orders, 1915, as subsequently amended, provide quite clearly that in the case of an order obtained by a local authority (No. 15), the payments shall be made to the council of the county.

This is in contradistinction of the other forms, when the orders are obtained by mothers. In other words, it seems quite clear that it was intended that payments under the order obtained by a county authority should be made direct to them, and not through the clerk of the court.

Do you agree, or do you consider that s. 52 (2) of the Magistrates' Courts Act, 1952, is an overriding provision?

(2) Once an order has been obtained in the circumstances set out above, it appears by s. 88 (4) of the Children and Young Persons Act, 1933, that it shall not remain in force in the case of a child committed to care as a fit person, after the order for his committal has ceased to be in force; but there is a proviso that the mother may apply to the court for the order to be revived in her favour.

Why the word "revived"?

Presumably once the adjudication of paternity has been made, that part of the order must always be effective, and I should have thought "varied" would be a better term than "revived" in the proviso to s. 88 (4), because the order cannot in fact have lapsed.

TOCLUS.

Answer.

(1) The Magistrates' Courts Act, 1952, is a consolidating Act containing only minor amendments. Section 52 (1) and (2) are in the main a re-enactment of the provisions contained in the Affiliation Orders Act, 1914, and the Criminal Justice Administration Act, 1914. In our opinion the position was, and is, that the courts should order payment through the collecting officer unless representations are made by the person or authority entitled to receive payments.

(2) It may be, as our learned correspondent suggests that "varied" would have been a better word than "revived," but the meaning is quite clear, namely, that the part of the order relating to payments may be revived.

3.—Criminal Law—Obscene libel—Obscene publications.

I should be obliged if you could advise me on the difference between an obscene publication and an obscene libel.

The Concise Law Dictionary, published by Sweet & Maxwell, contains the following definitions:

Obscene publication: "... the tendency of which is to deprave and corrupt those whose minds are open to immoral influences, and into whose hands it is likely to fall" (per Cockburn, C.J., *R. v. Hicklin*, L.R. 3 Q.B. 371).

Libel: "A public libel is one which tends to produce evil consequences to society, because it is blasphemous, obscene or seditious."

It was thought that the difference between the two lay in the definitions quoted above, in that the "publication" limited the depravity to a certain section of the public, whereas the "libel" tended to corrupt society in general, but in the recent case of *R. v. Reiter and Others* [1954] 1 All E.R. 741, the test of obscenity as laid down in *R. v. Hicklin* was applied by the Lord Chief Justice on the trial of an indictment for publishing an obscene libel.

Archbold's Criminal Pleading, 33rd edn., paras. 2586 and 2587, set out "particulars of offence" of publishing an obscene libel with particular reference to the form it should take when the libel is contained in a book, and para. 2587, in dealing with the indictment for selling and publishing obscene books, etc., refers to the example quoted in para. 2586 and adds "but stating the book as 'an obscene libel in the form of a book entitled' state the title."

I would be particularly grateful if you could also let me know:

(i) Under what circumstances does an obscene photograph become an obscene libel?

(ii) Under what circumstances does an obscene publication become an obscene libel?

(iii) If a book is an obscene libel does it follow that it automatically becomes an obscene publication?

In connexion with (ii) above, I am aware that proceedings have been taken at one court against publishers for publishing an obscene book and at a different court for publishing an obscene libel in respect of the same book.

It has been noticeable that the penalty imposed by the court in respect of the libel has been appreciably greater than for the publication.

T. SEE-N-ELL.

Answer.

An obscene libel may consist of a publication whether by printing, writing, signs or pictures, 4 Steph. Com. It seems, therefore, that the publication of any such obscene matter may be the subject of a prosecution for obscene libel, or obscene publication as referred to in the two paragraphs from *Archbold* cited above. It is possible that an indictment for publication, exhibiting or selling might be more appropriate in cases where the matter complained of was a model of some other article, and not a writing or picture. See *Magistrates' Courts Act*, 1952, sch. 1, para. 16.

(i) In our opinion, when it is published it can be prosecuted as an obscene libel.

(ii) If it comes within the definition in 4 Steph. Com. cited above.

(iii) That seems to be so, and once it is published it can be prosecuted as such.

Generally, it seems clear that the test of obscenity must be the same, whichever offence is charged.

4.—Distress—Animal damage feasant—Sale—Recovery of maintenance.

I should be obliged for your opinion upon the following points:

(a) Has the distrainer of animals seized for distress damage feasant a power to sell them to pay the cost of their keep?

(b) If there is such power of sale must notice of intention to exercise the same be first given in the press and to the owner of the animals?

CORTON.

Answer.

(a) No; "he hath it only for a gage": *Bagshawe v. Goward* (1607) Cro. Jac. 147. He must feed the animal, and his remedy is to recover the cost from its owner as a civil debt: s. 7 of the Protection of Animals Act, 1911.

(b) Does not arise.

5.—Husband and Wife—Maintenance—Husband offers cohabitation—Offer refused owing to alleged adultery—Is wife justified in refusing?

A maintenance order made on the ground of desertion exists between H and W. The husband, H, applies for a discharge of the order on the grounds that the wife W, has refused a *bona fide* offer to resume cohabitation with him. It has come to the notice of the wife that her husband has committed adultery with one, C. She can produce evidence that H has been seen in the company of C and also that C has given birth to a child. However, there is no evidence of an admission of adultery by H and the only evidence on which the wife bases her suspicions is hearsay. C, apparently, is the only person who could offer real evidence that H has committed adultery with her.

Other ancillary factors are: H is a coloured man, C is a white woman and the child to which she gave birth is coloured.

(a) Do you consider that C is an incompetent witness having regard to the proviso to s. 3 of the Evidence Further Amendment Act, 1869, which provides that—"No witness in any proceeding, whether a party or not, is to be asked or bound to answer any question tending to show his or her adultery, unless such witness has already in the same proceeding, given evidence in disproof of his or her adultery."

(b) Could it be argued that the proceedings in this case were not instituted in consequence of adultery and that therefore, the proviso is not applicable in this case?

Even though the original proceedings were not instituted on the grounds of adultery, I feel that the alleged adultery is now an issue in the original proceedings, and in view of the principle of the common law of the country, that a party cannot be required by evidence to incriminate herself, it would be unsafe to subpoena the alleged co-respondent.

SCYLLA.

Answer.

The point of this case is whether the wife is justified in refusing her husband's offer to resume cohabitation, and is entitled to have the maintenance order remain in force. This is for the justices to decide, upon the evidence. If they think the wife is fully justified in thinking her husband has committed adultery, and he is not able to satisfy them to the contrary, they may hold that she is not bound to return to him: *Everitt v. Everitt* [1949] 1 All E.R. 908; 113 J.P. 279, cf. *Glenister v. Glenister* [1945] 1 All E.R. 513; 109 J.P. 194.

These proceedings are not instituted in consequence of adultery. They are instituted by the husband on a totally different ground, and the issue of adultery or suspected adultery is raised as a defence. However, so far as the proviso is concerned, the word "such" does not appear although it is inserted in s. 32 (3) of the Matrimonial Causes Act, 1950, which relates to proceedings in the High Court. We do not think C is a compellable witness, but her evidence is admissible, if given voluntarily, *Spring v. Spring and Jiggins* [1947] 1 All E.R. 886, though it would require corroboration, *Fairman v. Fairman* [1949] 1 All E.R. 938; 113 J.P. 275. If possible, evidence should be given of the association of the husband with C and of any facts that cause reasonable suspicion which may justify the wife's refusal to resume cohabitation.

6.—Licensing—Occasional licence—Private party held by a society—Consumption of intoxicating liquor previously bought in quantity.

A group of people having formed a society, not being a registered club, propose to hold a dinner, the cost to each member and friends to be at a rate of 30s. per person.

The charge of 30s. for the tickets, which will be obtained prior to the event, will include the provision of wines and spirits at the dinner.

The secretary of the society will order and arrange for the wines and spirits to be delivered to the function and pay the supplier from the funds of the society.

The function will not be held on licensed premises and of course no actual cash transactions will take place at the time.

Under such circumstances do you consider that an occasional licence is necessary?

It will be appreciated if you will please give the reasons for your opinion in this matter.

N. EBORACUM/JOP.

Answer.

The society in question has the features of a club, but, seemingly, has no occupation of premises which are a requisite to registration under the provisions of s. 143 of the Licensing Act, 1953.

An occasional licence is necessary only where intoxicating liquor is proposed to be sold by retail in unlicensed premises (Customs and Excise Act, 1952, s. 151 (1)). In the case in point, the intoxicating liquor will be bought outright in advance of the dinner and in quantity sufficient for the dinner by the secretary of the society, acting as agent for identifiable people attending the dinner. The transaction at the dinner will be a distribution of the diners' own property.

Therefore, we think that if the dinner is conducted strictly in accordance with the scheme outlined by our correspondent no occasional licence will be required.

7.—Magistrates—Jurisdiction and powers—Inquiry into means—Powers of court to adjourn and to remand?

My justices have issued a warrant for means inquiry (not endorsed for bail).

It is desired that the court holding the means inquiry shall consist of the magistrates who convicted the defendant. As these are not readily available an adjournment after arrest is necessary (indeed this is sometimes necessary to get two justices at all). The statutory provisions for remand in custody apparently apply to "offences" and "complaints" for orders and this does not appear to be either of these. It appears that a court has a common law right to adjourn and presumably therefore to take the necessary steps to see that a defendant shall appear on adjournment. Can you tell me please (quoting your authorities):

(a) Whether a magistrates' court has power to adjourn the hearing of a means inquiry?

(b) If so, has it power to remand the defendant:

(i) on bail?

(ii) in custody to police cells?

(iii) in custody to prison?

(c) If the defendant is remanded in custody, what power is there to release him on payment of the full amount due from him before the day and time of the resumption of the means inquiry?

JAWAL.

Answer.

Statutory power to adjourn and to remand is conferred, we agree, to courts sitting as examining justices and to those hearing informations or complaints. On the hearing of a means inquiry we think that the dictum of Phillimore, J., in *R. v. Southampton JJ. ex parte Lebern* (1907) 71 J.P. 332 at p. 334 can be relied upon. He speaks of the common law power of every court to adjourn for a reasonable time on reasonable grounds. This, however, does not in our view include any power to remand.

The answers are, therefore:

(a) Yes.

(b) No.

(c) Does not arise.

Where the hearing is adjourned the defendant should be told that he is required to attend at the adjourned hearing, unless he pays meantime the amount due and may be warned that if he does not a fresh warrant can be issued.

8.—Small Dwellings Acquisition Acts, 1899-1923—Further advance for repairs.

My council has made advances during the past few years under the above Acts, to enable persons to acquire freehold and leasehold properties, and the borrowers have made their repayments in accordance with the Acts, whereby the amount advanced has been reduced. There is still owing due a balance in respect of the said mortgage, and some of the borrowers have made application to the council for a further sum to enable them to carry out repairs to their respective properties. A question has arisen, whether the council can under the Acts make further advances, and your views thereon would be much appreciated.

PERMORT.

Answer.

No, in our opinion, but an advance may be made for repairs under s. 4 of the Housing Act, 1949, in addition to assistance under the Small Dwellings Acquisition Acts; see s. 4 (1) (d) and (4) of the Act of 1949.



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The appointment and salary will be in accordance with the Probation Rules. The successful candidate will be required to pass a medical examination and the salary will be subject to superannuation deductions.

Applications, stating age, qualifications and experience, together with copies of two recent testimonials, should reach the undersigned not later than September 25 next.

Envelopes should be endorsed "Male Probation Officer."

A. J. A. ORME,
Secretary of the Probation Committee,
Petty Sessional Court House,
Bristol 1.

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THIRD ASSISTANT SOLICITOR required in Town Clerk's Department, Sunderland. Municipal experience desirable but not essential. Salary—A.P.T. Grade VII (£735—£810). Applications stating age, qualifications and experience, with copy testimonials, to Town Clerk, Town Hall, Sunderland, by September 30, 1954. Canvassing directly or indirectly will disqualify.

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Borough of Morley

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APPLICATIONS are invited for the above whole-time appointment. Applicants must have a thorough knowledge of the work of a Justices' Clerk's Office, and previous Court experience is essential. The appointment will be made within the salary scale £490×£15—£535 per annum, commencing salary according to experience, the scale to be subject to review when National Scales for Justices' Clerks' Assistants have been negotiated or fixed. The appointment which is superannuable, will be subject to one month's notice on either side, and the successful candidate will be required to pass a medical examination.

Applications, stating age and experience, together with copies of three recent testimonials, must reach the undersigned not later than Saturday, October 16, 1954.

BERNARD KENYON,
Clerk to the Magistrates' Courts Committee

County Hall,
Wakefield.

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MONMOUTHSHIRE COMBINED AREA PROBATION COMMITTEE

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The appointment will be subject to the Probation Rules and the salary paid will be according to the scale prescribed in the Rules.

The successful applicant will be required to pass a medical examination. Applications stating age, present position, qualifications and experience, together with the names of at least two referees, should reach the undersigned not later than September 27, 1954.

VERNON LAWRENCE,
Secretary of the Committee.

County Hall,
Newport, Mon.

BOROUGH OF YEOVIL

Deputy Town Clerk

APPLICATIONS are invited from Solicitors for the above post. Salary between £735 and £860 according to qualifications and experience.

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A. J. A. ORME,

Clerk to the Magistrates' Courts Committee.

Petty Sessional Court House,
Bristol, 1.

CITY OF PLYMOUTH**Appointment of Conveyancing Clerk
Town Clerk's Office**

APPLICATIONS are invited for the above appointment at a salary in accordance with Grade A.P.T. II (£520 per annum rising by annual increments of £15 to £565 per annum). A recent recommendation of the National Joint Council, if accepted, will increase this salary scale as from January 1, 1955, to £540, rising to £580. The appointment is superannuable and the successful applicant will be required to pass a medical examination. Previous experience in a Local Government Office is not essential. Applications giving details of experience in a Solicitor's office and particularly conveyancing work, and particulars of present and previous employment together with the names of two referees must reach me before Wednesday, September 29, 1954.

Dated this Tenth day of September, 1954.

S. LLOYD JONES,
Town Clerk.

Pounds House,
Peveler,
Plymouth.

WEST SUSSEX PROBATION AREA**Appointment of Whole-time Male Probation Officer**

APPLICATIONS are invited for the above appointment. Applicants must be not less than twenty-three nor more than forty years of age, except in the case of whole-time serving Officers. The appointment will be subject to the Probation Rules, 1949—1954 and the salary will be in accordance with the prescribed scales, subject to superannuation deductions. The successful applicant will be required to pass a medical examination and to reside in the Horsham-Crawley area. A car will be provided and applicants must be able to drive.

Applications, stating age, present position and salary, previous employment, qualifications and experience, together with the names of not more than three persons to whom reference may be made, should be submitted not later than September 24, 1954.

T. C. HAYWARD,
Secretary of the West Sussex
Probation Committee.

County Hall,
Chichester,
September 4, 1954.

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APPLICATIONS are invited from admitted Solicitors for this appointment. Salary A.P.T. Grade VIII (£785—£860 per annum).

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Applications to be received by October 5, 1954.

PHILIP J. WALTERS,
Town Clerk.

Guildhall,
Wrexham.
September, 1954.

WOKING URBAN DISTRICT COUNCIL**Appointment of Clerk to the Council**

APPLICATIONS are invited from solicitors of at least seven years' standing, with wide municipal experience, for the above appointment, at a salary in accordance with the recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks (population range 45—60,000).

Forms of application, giving full particulars of the terms and conditions of the appointment may be obtained from, and completed applications should reach, the undersigned not later than Monday, October 18, 1954.

Canvassing will disqualify.

F. H. SMITH,
Clerk of the Council.

Council Offices,
Woking, Surrey.
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Applications endorsed "Assistant Solicitor (1)" and "Assistant Solicitor (2)" respectively giving the names of two referees should reach the undersigned not later than September 28, 1954.

W. H. LEATHEM,
Town Clerk.

Town Hall,
Bradford.

BOGNOR REGIS URBAN DISTRICT COUNCIL**Appointment of Deputy Clerk of the Council**

APPLICATIONS are invited from solicitors for the above appointment at Grade A.P.T. IX (£840×£40—£960 per annum). Housing accommodation may be available for the successful applicant.

The appointment will be subject to the National Scheme; the Local Government Superannuation Acts, 1937—1953; medical examination; and will be determinable by one calendar month's notice on either side.

The successful applicant will not be permitted to engage, directly or indirectly, in private practice.

Applications, stating age, whether married, and full particulars of experience and present and past appointments, accompanied by copies of three recent testimonials, must reach the undersigned in envelopes endorsed "Deputy Clerk" not later than first post on September 25.

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R. W. J. HILL,
Clerk of the Council.

Town Hall,
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Applications, stating age, qualifications and experience giving names of three persons as referees to reach the undersigned by September 30. Any relationship with a member of the Council or Chief Officer to be notified in writing. Canvassing disqualifies.

EDWIN M. NEAVE,
Town Clerk.

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